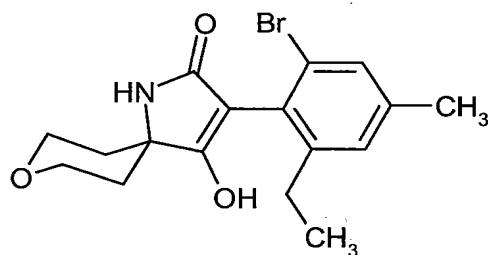


Remarks

Upon entry of the foregoing amendment, claims 1-6, 8, 9, 11-15 and 17-19 are pending in the application, with claims 1, 17, 18 and 19 being the independent claims. Claims 7, 10 and 16 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. The Examiner had stated that claims 7, 10 and 16 were allegedly drawn to a subject matter that is non-statutory under 35 U.S.C. § 101 and can not be examined as written. In view of the cancellation of claim 7, 10 and 16, this objection has been rendered moot. These changes are believed to introduce no new matter, and their entry is respectfully requested.

In reply to the Office Action dated October 31, 2008, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of Group I represented by claims 1-5, 8, and 11-14. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

The Office has also required Applicants to elect a single species within the elected group. Applicants provisionally elect compound **I-a-1** as the single species. All of the claims of Group I, claims 1-5, 8 and 11-14, read on the elected species. The structure of compound I-a-1 is:



This election is made **with** traverse.

This application is a National Phase Entry Under 35 U.S.C. § 371 and, as such, PCT Rule 13 requiring unity of invention applies. Title 37 of the Code of Federal Regulations states:

(b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combination of categories: . . .

(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; . . . 37 C.F.R. § 1.475 (b)(1)(2).

Elected Group I contains claims drawn to specific compounds, pesticides and/or herbicides and compositions of formula I. Group II is drawn to a process of preparing the compounds of Group I. Group III is drawn to a method of using the compounds of Group I. Groups I, II and III therefore share unity of invention because the special technical feature common to all the claims in the groups is the compounds of Group I. Applicants therefore respectfully assert that the Groups I, II and II share unity of invention and the Restriction Requirement is improper.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

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It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

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